

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.723 OF 2005

Mr.Memmood Alam urf Raju ..Petitioner

Vs.

State of Maharashtra & Anr. ..Respondents

Mr.Yug Mohit Chaudhary Advocate for Petitioner

Mr.Rajesh More A.P.P. for the State

CORAM: SMT.V.K.TAHILRAMANI, J.

DATE : SEPT.,30,2005

P.C.

1. Heard the learned advocate for the petitioner-accused and the learned A.P.P. for the State.

2. The petitioner is an accused in C.R.No.230 of 2002 of Nirmal Nagar Police Station. The said case is numbered as Sessions Case No.1037 of 2002. The petitioner is facing prosecution under Section 302 of IPC.

3. It is the case of the petitioner that he is a juvenile and therefore, he preferred application before the Sessions Court that his case be transferred to the Juvenile Court. The learned Sessions Judge by order dated 31.1.2005 rejected the said application. Being aggrieved thereby, this Writ Petition has been preferred.

4. It is the contention of the learned advocate for the petitioner that the petitioner was a native of Uttar Pradesh and there are various documents like the Birth Certificate and School Leaving Certificate which clearly show that the petitioner is a juvenile. It is submitted that as the documents were not available and they had to procure the same from Uttar Pradesh, the documents could not be produced at the time when the order dated 13.1.2005 was passed. These documents are now produced before this Court. In my view, the appropriate course would be that the Sessions Court should take all these documents into consideration and thereafter pass the order after following necessary procedure. In this view of the matter, the order dated 13.1.2005 passed by the learned

Addl.Sessions Judge, Mumbai, is set aside. The learned Judge shall consider the case of the petitioner afresh in accordance with law and thereafter pass necessary order.

5. Writ Petition is disposed of.

[V.K.TAHILRAMANI, J.]